IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 32 of 2004

AND

CONTEMPT CASE NO : 1679 of 2004

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WRIT PETITION NO : 32 of 2004

Between:

D.Raja Narayana, S/o Lingaiah, Superintendent,
Office of the Chief Engineer, Minor Irrigation, Errummanzil,
Hyderabad.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, represented by its Principal Secretary, Irrigation & CAD Department, Secretariat, Hyderabad.
2 The Engineer-in-Chief (Irrigation Wing), Irrigation & CAD Department , Errummanzil, Hyderabad.
3 The Chief Engineer, Central Designs Organisation,
M.J. Road, Hyderabad.
4 The Superintending Engineer, PP&M, 3rd Floor, BRR Complex,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ Order or direction particularly one in the nature of Writ of Certiorari after

calling for the records relating to the judgment in OA.No.239/1998 dated 21-10-2003 on the file of the Hon'ble A.P. Administrative Tribunal, Hyderabad and quash the same and consequently declare that Proc.No.CE/CDO/Admn/A6/1176/92-1 dated 22-11-1997 issued cancelling appointment of selection grade LDC; Proc.No.CE/CDO/Admn/A6/1196/92-2 dated 22-11-1997 issued downgrading the pay of the petitioner and ordering recovery of the alleged excess amount paid; OO.No.CE/CDO/Bills/SBI/B2/97 dated 15-12-97 issued ordering recovery and OO.No.SE/PP&MU/Admn./A1/1009/93-2 Vol.VIII dated 15-1-1998 ordering further recovery are illegal, arbitrary, contrary to the settled law and violative of Articles 14 and 16 of the Constitution of India.

Counsel for the Petitioner: MR.M.PANDURANGA RAO

Counsel for the Respondents: GP FOR SERVICES I

CONTEMPT CASE NO : 1679 of 2004

(Contempt Case U/s. 10 to 12 of Contempt of Courts Act to punish the Respondents herein for violating, disobeying the Order of the High Court dated 5.1.2004 in WPMP No.46 of 2004 in WP No.32 of 2004.

Between:

D. RAJA NARAYANA S/o Lingaiah, Superintendent,
R/o H.No.12-1-490/29/7, Swamikrupa Shankar Nagar,
Asif Nagar, Hyderabad-67.

..... PETITIONER

AND

Sri C. Chandra Mohan,
Office of the Engineer in Chief (IW), I&CAD Department, Jalasoudha,
Erramanzil, Hyderabad.

.....RESPONDENT

Counsel for the Petitioner: MR.M.PANDURANGA RAO

Counsel for the Respondent: GP FOR SERVICES II

The Court made the following:

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COMMON ORDER: (per GB.J.)

The Writ Petition is filed assailing the order passed A.P. Administrative Tribunal (for brevity Tribunal) in O.A.No.239 of 1998, dated 21.10.2003.

2. The petitioner, who was an applicant before the Tribunal, challenged the recovery of his salary towards the alleged release of the amounts consequent on the stepping up of pay on par with Mr.Anwarullah. It is the case of the petitioner that he was eligible to draw the pay on par with Mr.Anwarullah who was granted selection grade. The authorities passed orders on 25.9.1985 stepping up his pay and until and unless the selection grade in respect of Mr.Anwarulla was declared as wrong, the stepping up of the pay of the petitioner on par with him cannot be said to be illegal and contrary to law. However, the authorities, after giving notice, passed the order of recovery, but in the meanwhile the petitioner retired from service in June, 2004. The Tribunal taking into consideration the principle of equal pay for equal work, dismissed the OA filed by the petitioner. Against the said order, the present Writ Petition has been filed.

3. The learned counsel for the petitioner submits that the order of the Tribunal is wholly misconceived. What is sought to be contended by him is that keeping in view the principle that a senior should not be allowed to get less than the junior's pay, he was granted selection grade in pursuance of Rule 46(a) of A.P. State and Subordinate Service Rules.

4. After perusing the order of the Tribunal, we find that the above aspect was not concentrated by the Tribunal, but only taking into consideration the principle of equal pay for equal work, dismissed the OA. Under these circumstances, the matter

requires reconsideration in the hands of the Tribunal.

5. Accordingly the Writ Petition is allowed and the order of the Tribunal is set aside and the matter is remitted back to the Tribunal for fresh consideration in accordance with the Rules. The Tribunal shall issue notice to the parties concerned and pass appropriate orders within a period of two (02) months from the date of receipt of a copy of this order. Till such time, further recoveries from the petitioner shall be stayed. No costs.

C.C.No.1679 of 2004

6. In view of the orders passed in Writ Petition No.32 of 2004, no orders are necessary in the Contempt Case.

7. Accordingly the Contempt Case is closed.

(G.BIKSHAPATHY, J.)

25th March, 2005.

SSR (P.S.NARAYANA, J.)

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Principal Secretary, Irrigation & CAD Department, Government of

Andhra Pradesh, Secretariat, Hyderabad.
2 Sri Chandra Mohan, Engineer-in-Chief (Irrigation Wing), Irrigation & CAD Department ,
Errummanzil, Hyderabad.
3 The Chief Engineer, Central Designs Organisation,
M.J. Road, Hyderabad.
4 The Superintending Engineer, PP&M, 3rd Floor, BRR Complex,
Hyderabad.

5 The Registrar, A.P. Administrative Tribunal, Hyderabad.

6 2 CCs to G.P. for Services-II, High Court of A.P. Hyderabad. (OUT)

8 2 CD copies

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